

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

PAO XIONG,

Petitioner,

v.

Case No. 11-C-474

UNITED STATES OF AMERICA,

Respondent.

ORDER

On May 8, 2011, Pao Xiong filed a motion to vacate his conviction and sentence pursuant to 28 U.S.C. § 2255. A jury found Petitioner guilty of arson, conspiracy, mail fraud, making false statements, and witness tampering. He was sentenced to 180 months of imprisonment and three years of extended supervision.

Pursuant to Rule 4 of the Rules Governing § 2255 Proceedings, I must give the case prompt initial examination:

If it plainly appears from the face of the motion and any annexed exhibits and the prior proceedings in the case that the movant is not entitled to relief in the district court, the judge shall make an order for its summary dismissal and cause the movant to be notified. Otherwise, the judge shall order the United States Attorney to file an answer or other pleading

Rule 4, Rules Governing § 2255 Proceedings.

During my initial review of habeas petitions, I look to see whether the petitioner has set forth cognizable claims under § 2255. Petitioner asserts several grounds for relief. First, he asserts that he is actually innocent and claims that cellular telephone records will show that he was in a location

other than the crime scene at the time of the offense. Second, he claims his trial counsel was ineffective by failing to investigate and prepare for trial, making poor strategic and tactical trial decisions, and failing to call witnesses at trial.

In reviewing the face of the motion and the prior proceedings in the case I cannot determine that petitioner is not entitled to relief. Accordingly the United States attorney shall file an answer, motion, or other response on or before July 1, 2011. Petitioner may file a reply on or before August 1, 2011. Upon review of the filings, the Court will determine whether an evidentiary hearing may be warranted.

SO ORDERED this 19th day of May, 2011.

s/ William C. Griesbach
William C. Griesbach
United States District Judge